

AMENDED IN ASSEMBLY SEPTEMBER 6, 2013

AMENDED IN ASSEMBLY SEPTEMBER 3, 2013

AMENDED IN ASSEMBLY AUGUST 8, 2013

AMENDED IN SENATE MAY 8, 2013

AMENDED IN SENATE APRIL 25, 2013

AMENDED IN SENATE APRIL 11, 2013

AMENDED IN SENATE MARCH 12, 2013

SENATE BILL

No. 141

Introduced by Senator Correa

(Principal coauthor: Senator Leno)

**(Coauthors: Senators Cannella, Evans, Hernandez, Lara, and
Steinberg)**

(Coauthors: Assembly Members Ammiano, Garcia, and Wieckowski)

January 29, 2013

An act to amend Sections 76140 and 89705 of the Education Code,
relating to postsecondary education.

LEGISLATIVE COUNSEL'S DIGEST

SB 141, as amended, Correa. Postsecondary education benefits:
children of deported or voluntarily departed parents.

(1) Existing law establishes the California Community Colleges,
under the administration of the Board of Governors of the California
Community Colleges, the California State University, under the
administration of the Trustees of the California State University, and
the University of California, under the administration of the Regents
of the University of California, as the 3 segments of public higher

education in the state. Existing law exempts specified students from paying nonresident tuition at the California Community Colleges and the California State University.

This bill would additionally exempt a student who is a United States citizen who resides in a foreign country, and who meets all of the following requirements, from nonresident tuition at the California Community Colleges and the California State University: (A) demonstrates financial need for the exemption; (B) has a parent who has been deported or was permitted to depart voluntarily; (C) moved abroad as a result of that deportation or voluntary departure; (D) lived in California immediately before moving abroad; (E) attended a public or private secondary school in the state for 3 or more years; and (F) upon enrollment, will be in his or her first academic year as a matriculated student in California public higher education, as defined, will be living in California, and will file an affidavit with the institution stating that he or she intends to establish residency in California as soon as possible. The bill would request the regents to enact regulations and procedures to exempt similarly situated students of the University of California from nonresident tuition.

This bill would incorporate changes proposed by both this bill and SB 150 to the provision relating to nonresident tuition at the California Community Colleges, contingent on the prior enactment of that bill, as specified.

(2) To the extent the provisions of this bill would place additional requirements on community college districts regarding the provision of postsecondary education benefits to additional categories of students, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) It is estimated that over 5 million children are currently living
4 in the United States with at least one undocumented immigrant
5 parent. Approximately 75 percent of these children are United
6 States citizens, and many of them are from California.

7 (b) When one or both parents are deported, these citizen children
8 often have no recourse but to leave the country. At no fault of their
9 own, these children lose their schools, friends, and the place they
10 have come to know as “home.”

11 (c) As a result of moving abroad, there is a break in these
12 children’s presence in California, affecting their ability in later
13 years to attend a California public college or university at the much
14 lower resident prices.

15 (d) Today, these children, who are American citizens, are
16 growing up outside the United States, yet their desire to return to
17 their birth home continues to live within them. These children lack
18 many basic services granted to most United States citizens.

19 (e) The State of California has an interest in ensuring that these
20 children can access and afford a high-quality education.

21 SEC. 2. Section 76140 of the Education Code, as added by
22 Section 66 of Chapter 38 of the Statutes of 2012, is amended to
23 read:

24 76140. (a) A community college district may admit, and shall
25 charge a tuition fee to, nonresident students, except that a
26 community college district may exempt from all or parts of the
27 fee any person described in paragraph (1), (2), or (3), and shall
28 exempt from all of the fee any person described in paragraph (4):

29 (1) All nonresidents who enroll for six or fewer units.
30 Exemptions made pursuant to this paragraph shall not be made on
31 an individual basis.

32 (2) Any nonresident who is both a citizen and resident of a
33 foreign country, if the nonresident has demonstrated a financial
34 need for the exemption. Not more than 10 percent of the
35 nonresident foreign students attending any community college
36 district may be so exempted. Exemptions made pursuant to this
37 paragraph may be made on an individual basis.

1 (3) (A) A student who, as of August 29, 2005, was enrolled,
2 or admitted with an intention to enroll, in the fall term of the
3 2005–06 academic year in a regionally accredited institution of
4 higher education in Alabama, Louisiana, or Mississippi, and who
5 could not continue his or her attendance at that institution as a
6 direct consequence of damage sustained by that institution as a
7 result of Hurricane Katrina.

8 (B) The chancellor shall develop guidelines for the
9 implementation of this paragraph. These guidelines shall include
10 standards for appropriate documentation of student eligibility to
11 the extent feasible.

12 (C) This paragraph shall apply only to the 2005–06 academic
13 year.

14 (4) A nonresident student who is a United States citizen who
15 resides in a foreign country, if that nonresident meets all of the
16 following requirements:

17 (A) Demonstrates a financial need for the exemption.

18 (B) Has a parent or guardian who has been deported or was
19 permitted to depart voluntarily under the federal Immigration and
20 Nationality Act in accordance with Section 1229c of Title 8 of the
21 United States Code. The student shall provide documents from the
22 United States Citizenship and Immigration Services evidencing
23 the deportation or voluntary departure of his or her parent or
24 guardian.

25 (C) Moved abroad as a result of the deportation or voluntary
26 departure specified in subparagraph (B).

27 (D) Lived in California immediately before moving abroad. The
28 student shall provide information and evidence that demonstrates
29 the student previously lived in California.

30 (E) Attended a public or private secondary school, as described
31 in Sections 52 and 53, in the state for three or more years. The
32 student shall provide documents that demonstrate his or her
33 secondary school attendance.

34 (F) Upon enrollment, will be in his or her first academic year
35 as a matriculated student in California public higher education, as
36 that term is defined in subdivision (a) of Section 66010, will be
37 living in California, and will file an affidavit with the institution
38 stating that he or she intends to establish residency in California
39 as soon as possible.

1 (b) A district may contract with a state, a county contiguous to
2 California, the federal government, or a foreign country, or an
3 agency thereof, for payment of all or a part of a nonresident
4 student's tuition fee.

5 (c) Nonresident students shall not be reported as full-time
6 equivalent students (FTES) for state apportionment purposes,
7 except as provided by subdivision (j) or another statute, in which
8 case a nonresident tuition fee may not be charged.

9 (d) The nonresident tuition fee shall be set by the governing
10 board of each community college district not later than February
11 1 of each year for the succeeding fiscal year. The governing board
12 of each community college district shall provide nonresident
13 students with notice of nonresident tuition fee changes during the
14 spring term before the fall term in which the change will take
15 effect. Nonresident tuition fee increases shall be gradual, moderate,
16 and predictable. The fee may be paid in installments, as determined
17 by the governing board of the district.

18 (e) (1) The fee established by the governing board pursuant to
19 subdivision (d) shall represent for nonresident students enrolled
20 in 30 semester units or 45 quarter units of credit per fiscal year
21 one or more of the following:

22 (A) The amount that was expended by the district for the
23 expense of education as defined by the California Community
24 College Budget and Accounting Manual in the preceding fiscal
25 year increased by the projected percent increase in the United
26 States Consumer Price Index as determined by the Department of
27 Finance for the current fiscal year and succeeding fiscal year and
28 divided by the FTES (including nonresident students) attending
29 in the district in the preceding fiscal year. However, if for the
30 district's preceding fiscal year FTES of all students attending in
31 the district in noncredit courses is equal to, or greater than, 10
32 percent of the district's total FTES attending in the district, the
33 district may substitute the data for expense of education in grades
34 13 and 14 and FTES in grades 13 and 14 attending in the district.

35 (B) The expense of education in the preceding fiscal year of all
36 districts increased by the projected percent increase in the United
37 States Consumer Price Index as determined by the Department of
38 Finance for the fiscal year and succeeding fiscal year and divided
39 by the FTES (including nonresident students) attending all districts
40 during the preceding fiscal year. However, if the amount calculated

1 under this paragraph for the succeeding fiscal year is less than the
2 amount established for the current fiscal year or for any of the past
3 four fiscal years, the district may set the nonresident tuition fee at
4 the greater of the current or any of the past four-year amounts.

5 (C) An amount not to exceed the fee established by the
6 governing board of any contiguous district.

7 (D) An amount not to exceed the amount that was expended by
8 the district for the expense of education, but in no case less than
9 the statewide average as set forth in subparagraph (B).

10 (E) An amount no greater than the average of the nonresident
11 tuition fees of public community colleges of no less than 12 states
12 that are comparable to California in cost of living. The
13 determination of comparable states shall be based on a composite
14 cost-of-living index as determined by the United States Department
15 of Labor or a cooperating government agency.

16 (2) The additional revenue generated by the increased
17 nonresident tuition permitted under the amendments made to this
18 subdivision during the 2009–10 Regular Session shall be used to
19 expand and enhance services to resident students. In no event shall
20 the admission of nonresident students come at the expense of
21 resident enrollment.

22 (f) The governing board of each community college district also
23 shall adopt a tuition fee per unit of credit for nonresident students
24 enrolled in more or less than 15 units of credit per term by dividing
25 the fee determined in subdivision (e) by 30 for colleges operating
26 on the semester system and 45 for colleges operating on the quarter
27 system and rounding to the nearest whole dollar. The same rate
28 shall be uniformly charged nonresident students attending any
29 terms or sessions maintained by the community college. The rate
30 charged shall be the rate established for the fiscal year in which
31 the term or session ends.

32 (g) Any loss in district revenue generated by the nonresident
33 tuition fee shall not be offset by additional state funding.

34 (h) Any district that has fewer than 1,500 FTES and whose
35 boundary is within 10 miles of another state that has a reciprocity
36 agreement with California governing student attendance and fees
37 may exempt students from that state from the mandatory fee
38 requirement described in subdivision (a) for nonresident students.

39 (i) Any district that has more than 1,500, but less than 3,001,
40 FTES and whose boundary is within 10 miles of another state that

1 has a reciprocity agreement with California governing student
2 attendance and fees may, in any one fiscal year, exempt up to 100
3 FTES from that state from the mandatory fee requirement described
4 in subdivision (a) for nonresident students.

5 (j) The attendance of nonresident students who are exempted
6 pursuant to subdivision (h) or (i), or pursuant to paragraph (3) or
7 (4) of subdivision (a), from the mandatory fee requirement
8 described in subdivision (a) for nonresident students may be
9 reported as resident FTES for state apportionment purposes. Any
10 nonresident student reported as resident FTES for state
11 apportionment purposes pursuant to subdivision (h) or (i) shall
12 pay a per unit fee that is three times the amount of the fee
13 established for residents pursuant to Section 76300. That fee is to
14 be included in the FTES adjustments described in Section 76300
15 for purposes of computing apportionments.

16 *SEC. 2.5. Section 76140 of the Education Code, as added by*
17 *Section 66 of Chapter 38 of the Statutes of 2012, is amended to*
18 *read:*

19 76140. (a) A community college district may ~~admit~~ *admit*,
20 and shall charge a tuition fee ~~to to~~, nonresident ~~students. The~~
21 ~~students, except that a community college district may exempt~~
22 ~~from all or parts of the fee any person described in paragraph (1),~~
23 ~~(2), or (3): (3), or (4), and shall exempt from all of the fee any~~
24 ~~person described in paragraph (5):~~

25 (1) All nonresidents who enroll for six or fewer units.
26 Exemptions made pursuant to this paragraph shall not be made on
27 an individual basis.

28 (2) Any nonresident who is both a citizen and resident of a
29 foreign country, if the nonresident has demonstrated a financial
30 need for the exemption. Not more than 10 percent of the
31 nonresident foreign students attending any community college
32 district may be so exempted. Exemptions made pursuant to this
33 paragraph may be made on an individual basis.

34 (3) (A) A student who, as of August 29, 2005, was enrolled,
35 or admitted with an intention to enroll, in the fall term of the
36 2005–06 academic year in a regionally accredited institution of
37 higher education in Alabama, Louisiana, or Mississippi, and who
38 could not continue his or her attendance at that institution as a
39 direct consequence of damage sustained by that institution as a
40 result of Hurricane Katrina.

1 (B) The chancellor shall develop guidelines for the
2 implementation of this paragraph. These guidelines shall include
3 standards for appropriate documentation of student eligibility to
4 the extent feasible.

5 (C) This paragraph shall apply only to the 2005–06 academic
6 year.

7 (4) *A special part-time student admitted pursuant to Section*
8 *76001.*

9 (5) *A nonresident student who is a United States citizen who*
10 *resides in a foreign country, if that nonresident meets all of the*
11 *following requirements:*

12 (A) *Demonstrates a financial need for the exemption.*

13 (B) *Has a parent or guardian who has been deported or was*
14 *permitted to depart voluntarily under the federal Immigration and*
15 *Nationality Act in accordance with Section 1229c of Title 8 of the*
16 *United States Code. The student shall provide documents from the*
17 *United States Citizenship and Immigration Services evidencing*
18 *the deportation or voluntary departure of his or her parent or*
19 *guardian.*

20 (C) *Moved abroad as a result of the deportation or voluntary*
21 *departure specified in subparagraph (B).*

22 (D) *Lived in California immediately before moving abroad. The*
23 *student shall provide information and evidence that demonstrates*
24 *the student previously lived in California.*

25 (E) *Attended a public or private secondary school, as described*
26 *in Sections 52 and 53, in the state for three or more years. The*
27 *student shall provide documents that demonstrate his or her*
28 *secondary school attendance.*

29 (F) *Upon enrollment, will be in his or her first academic year*
30 *as a matriculated student in California public higher education,*
31 *as that term is defined in subdivision (a) of Section 66010, will be*
32 *living in California, and will file an affidavit with the institution*
33 *stating that he or she intends to establish residency in California*
34 *as soon as possible.*

35 (b) A district may contract with a state, a county contiguous to
36 California, the federal government, or a foreign country, or an
37 agency thereof, for payment of all or a part of a nonresident
38 student's tuition fee.

39 (c) Nonresident students shall not be reported as full-time
40 equivalent students (FTES) for state apportionment purposes,

1 except as provided by subdivision (j) or another statute, in which
2 case a nonresident tuition fee may not be charged.

3 (d) The nonresident tuition fee shall be set by the governing
4 board of each community college district not later than February
5 1 of each year for the succeeding fiscal year. The governing board
6 of each community college district shall provide nonresident
7 students with notice of nonresident tuition fee changes during the
8 spring term before the fall term in which the change will take
9 effect. Nonresident tuition fee increases shall be gradual, moderate,
10 and predictable. The fee may be paid in installments, as determined
11 by the governing board of the district.

12 (e) (1) The fee established by the governing board pursuant to
13 subdivision (d) shall represent for nonresident students enrolled
14 in 30 semester units or 45 quarter units of credit per fiscal year
15 one or more of the following:

16 (A) The amount that was expended by the district for the
17 expense of education as defined by the California Community
18 College Budget and Accounting Manual in the preceding fiscal
19 year increased by the projected percent increase in the United
20 States Consumer Price Index as determined by the Department of
21 Finance for the current fiscal year and succeeding fiscal year and
22 divided by the FTES (including nonresident students) attending
23 in the district in the preceding fiscal year. However, if for the
24 district's preceding fiscal year FTES of all students attending in
25 the district in noncredit courses is equal to, or greater than, 10
26 percent of the district's total FTES attending in the district, the
27 district may substitute the data for expense of education in grades
28 13 and 14 and FTES in grades 13 and 14 attending in the district.

29 (B) The expense of education in the preceding fiscal year of all
30 districts increased by the projected percent increase in the United
31 States Consumer Price Index as determined by the Department of
32 Finance for the fiscal year and succeeding fiscal year and divided
33 by the FTES (including nonresident students) attending all districts
34 during the preceding fiscal year. However, if the amount calculated
35 under this paragraph for the succeeding fiscal year is less than the
36 amount established for the current fiscal year or for any of the past
37 four fiscal years, the district may set the nonresident tuition fee at
38 the greater of the current or any of the past four-year amounts.

39 (C) An amount not to exceed the fee established by the
40 governing board of any contiguous district.

1 (D) An amount not to exceed the amount that was expended by
2 the district for the expense of education, but in no case less than
3 the statewide average as set forth in subparagraph (B).

4 (E) An amount no greater than the average of the nonresident
5 tuition fees of public community colleges of no less than 12 states
6 that are comparable to California in cost of living. The
7 determination of comparable states shall be based on a composite
8 cost-of-living index as determined by the United States Department
9 of Labor or a cooperating government agency.

10 (2) The additional revenue generated by the increased
11 nonresident tuition permitted under the amendments made to this
12 subdivision during the 2009–10 Regular Session shall be used to
13 expand and enhance services to resident students. In no event shall
14 the admission of nonresident students come at the expense of
15 resident enrollment.

16 (f) The governing board of each community college district also
17 shall adopt a tuition fee per unit of credit for nonresident students
18 enrolled in more or less than 15 units of credit per term by dividing
19 the fee determined in subdivision (e) by 30 for colleges operating
20 on the semester system and 45 for colleges operating on the quarter
21 system and rounding to the nearest whole dollar. The same rate
22 shall be uniformly charged nonresident students attending any
23 terms or sessions maintained by the community college. The rate
24 charged shall be the rate established for the fiscal year in which
25 the term or session ends.

26 (g) Any loss in district revenue generated by the nonresident
27 tuition fee shall not be offset by additional state funding.

28 (h) Any district that has fewer than 1,500 FTES and whose
29 boundary is within 10 miles of another state that has a reciprocity
30 agreement with California governing student attendance and fees
31 may exempt students from that state from the mandatory fee
32 requirement described in subdivision (a) for nonresident students.

33 (i) Any district that has more than 1,500, but less than 3,001,
34 FTES and whose boundary is within 10 miles of another state that
35 has a reciprocity agreement with California governing student
36 attendance and fees may, in any one fiscal year, exempt up to 100
37 FTES from that state from the mandatory fee requirement described
38 in subdivision (a) for nonresident students.

39 (j) The attendance of nonresident students who are exempted
40 pursuant to subdivision (h) or (i), or pursuant to paragraph (3) *or*

(5) of subdivision (a), from the mandatory fee requirement described in subdivision (a) for nonresident students may be reported as resident FTES for state apportionment purposes. Any nonresident student reported as resident FTES for state apportionment purposes pursuant to subdivision (h) or (i) shall pay a per unit fee that is three times the amount of the fee established for residents pursuant to Section 76300. That fee is to be included in the FTES adjustments described in Section ~~76330~~ 76300 for purposes of computing apportionments.

~~(k) This section shall become operative on July 1, 2013.~~

SEC. 3. Section 89705 of the Education Code is amended to read:

89705. (a) Except as provided in subdivision (c), and as otherwise specially provided, an admission fee and rate of tuition fixed by the trustees shall be required of each nonresident student. The rate of tuition to be paid by each nonresident student, as defined in Section 68018, shall not be less than three hundred sixty dollars (\$360) per year. The rate of tuition paid by each nonresident student who is a citizen and resident of a foreign country and not a citizen of the United States, except as otherwise specifically provided, shall be fixed by the trustees and shall not be less than three hundred sixty dollars (\$360) per year.

(b) The trustees may waive entirely, or reduce below the rate, or the minimum rate, fixed by this section, the tuition fee of a nonresident student who is a citizen and resident of a foreign country and not a citizen of the United States and who attends a state university or college under an agreement entered into by a governmental agency or a nonprofit corporation or organization with a similar agency, or corporation or association, domiciled in and organized under laws of a foreign country, where a principal purpose of the agreement is to encourage the exchange of students with the view of enhancing international good will and understanding. The trustees shall, in each instance, determine whether the conditions for this exemption from fees exist and may prescribe appropriate procedures to be complied with in obtaining the exemption.

(c) The trustees shall waive entirely the admission fee and rate of tuition fixed under this section for a nonresident student who is a United States citizen who resides in a foreign country, if that nonresident meets all of the following requirements:

1 (1) Demonstrates a financial need for the exemption.

2 (2) Has a parent or guardian who has been deported or was
3 permitted to depart voluntarily under the federal Immigration and
4 Nationality Act in accordance with Section 1229c of Title 8 of the
5 United States Code. The student shall provide documents from the
6 United States Citizenship and Immigration Services evidencing
7 the deportation or voluntary departure of his or her parent or
8 guardian.

9 (3) Moved abroad as a result of the deportation or voluntary
10 departure specified in paragraph (2).

11 (4) Lived in California immediately before moving abroad. The
12 student shall provide information and evidence that demonstrates
13 the student previously lived in California.

14 (5) Attended a public or private secondary school, as described
15 in Sections 52 and 53, in the state for three or more years. The
16 student shall provide documents that demonstrate his or her
17 secondary school attendance.

18 (6) Upon enrollment, will be in his or her first academic year
19 as a matriculated student in California public higher education, as
20 that term is defined in subdivision (a) of Section 66010, will be
21 living in California, and will file an affidavit with the institution
22 stating that he or she intends to establish residency in California
23 as soon as possible.

24 SEC. 4. The Legislature requests the Regents of the University
25 of California to enact regulations and procedures that exempt from
26 nonresident tuition students of that university who meet the
27 requirements applicable to students of the California Community
28 Colleges and the California State University, respectively, in
29 paragraph (4) of subdivision (a) of Section 76140, and subdivision
30 (c) of Section 89705, of the Education Code.

31 SEC. 5. *Section 2.5 of this bill incorporates amendments to*
32 *Section 76140 of the Education Code proposed by both this bill*
33 *and Senate Bill 150. It shall only become operative if (1) both bills*
34 *are enacted and become effective on or before January 1, 2014,*
35 *(2) each bill amends Section 76140 of the Education Code, and*
36 *(3) this bill is enacted after Senate Bill 150, in which case Section*
37 *2 of this bill shall not become operative.*

38 ~~SEC. 5.~~

39 SEC. 6. If the Commission on State Mandates determines that
40 this act contains costs mandated by the state, reimbursement to

1 local agencies and school districts for those costs shall be made
2 pursuant to Part 7 (commencing with Section 17500) of Division
3 4 of Title 2 of the Government Code.

O